

SUMMARY

FOSTER CARE UNDER PUBLIC LAW AND PRIVATE LAW

The present thesis is dedicated to different aspects of foster care: its historical development; sources of law; conditions of its origination and dissolution; foster care mediation; rights and obligations of foster parents, children and biological parents; forms of foster care; and the system of financial supports.

Normally, the child's interest is to remain with his family of origin. But if it is impossible for any subjective or objective reason, a substitute family care must be provided. According to the given criteria and limitations the child can be adopted; entrusted to a person other than his/her parents; entrusted to a guardian (although guardianship can be considered as a form of substitute family care only if the guardian takes care of the minor personally); or placed in a foster family. Institutional care should be the last option.

For a long time, Czech republic have been criticized for having too many children in institutional care, even though it must be stressed that sometimes it is the only remaining solution (e.g. in the case of seriously handicapped person). But the main priority of the state should be to ensure a substitute family care always when possible.

As stated earlier, one of the forms of alternative child care is the foster family: "a fostering occurs when a child is entrusted, otherwise than a view to adoption, to a couple or an individual ("foster parents") who takes care of the child for more than a short time or for an undetermined time and who does not have legal custody of the child and who is not a parent".¹²⁹

The legal restriction of foster care is carried out by both private and public law. The individual foster care is regulated by Act N. 94/1963 Coll., the Family Act, as amended; the foster care mediation and collective foster care by Act N. 359/1999

¹²⁹ Appendix to Recommendation No. R (87) 6 of the Committee of Ministers to Member States on Foster Families

Coll., the Social Protection of Children Act, as amended. The financial support for foster parent(s) is determined by Act. N. 117/1995 Coll., the Financial Assistance Act, as amended, while the questions of civil procedure are regulated by Act. N. 99/1963 Coll., Rules of Civil Procedure.

Over the last few years, the most important innovation in the area of substitute family care was the establishment of temporary foster care in 2006. However, this new alternative form has not really succeeded and its future is more than questionable.